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**\* Signature required**

**SUBGRANT TERMS AND ASSURANCES**  
**Nebraska Health and Human Services System (NHHSS)**

Three agencies comprise NHHSS. The Department of Health and Human Services • Department of Health and Human Services Regulation and Licensure • Department of Health and Human Services Finance and Support are referred collectively as the **Nebraska Health and Human Services System**.

This is a subgrant of federal financial assistance. By accepting this subgrant, the Subrecipient agrees to comply with the terms and conditions described herein.

A. Programs. Subrecipient must operate the program(s) in compliance with the documents governing the award. The following documents and any revisions made during the program period govern the Subgrant and are hereby incorporated by this reference as though fully set forth herein.

- 1) Nebraska Health & Human Services System (NHHSS) Request for Application;
- 2) Subrecipient Project(s) Application;
- 3) Subrecipient Reporting Requirements (Exhibit 1);
- 4) Program Specific Requirements (Exhibit 2);
- 5) NHHSS Administrative and Audit Guidance for Subgrants (Exhibit 3) and the attached certifications; and
- 6) NHHSS' letter of award which includes the award period, amount of funds awarded, and any contingencies to the Subgrant award.

B. Reports. Subrecipient must submit data, program, and financial reports according to the reporting requirements (Exhibit 1). Extensions for the submission of reports and reimbursement **must be submitted in writing** to NHHSS for approval to prevent withholding of payment.

C. Administrative Requirements. Subrecipient must perform Subgrant activities, expend funds, and report financial and program activities in accordance with Federal grants administration regulations, U.S. Office of Management and Budget Circulars governing cost principles and audits (Exhibit 3), and comply with, complete, and return the certifications attached hereto.

D. Program Specific Requirements. Subgrant activities must comply with any program specific requirements included in NHHSS' Request for Application and Exhibit 2.

E. Nondiscrimination. The Subrecipient acknowledges that the Subgrant activities must be operated in compliance with civil rights laws and any implementing regulations, and makes the following assurances.

The Subrecipient warrants and assures that it complies as applicable to it with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, to the effect that no person shall, on the grounds of race, color, national origin, sex, age, handicap or disability, be excluded from participation in, denied benefits of, or otherwise be subjected to discrimination under any program or activity for which the Subrecipient receives federal financial assistance.

The Subrecipient and any of its subcontractors shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Subgrant with respect to hire, tenure, terms, conditions or privileges of employment because of the race, color, religion, sex, disability or national origin of the employee or applicant.

F. Reimbursement. Subrecipient must submit claims for reimbursement for actual, allowable, allocable and reasonable expenditures in accordance with the approved budget. NHHSS will make reimbursement, subject to the following conditions:

- 1) Subrecipient's submission of reports according to the reporting requirements described in Exhibit 1.
- 2) Availability of governmental funds to support this project. In the event funds cease to be available, this Subgrant shall be terminated, or the activities shall be suspended until such funds become available, in the sole discretion of NHHSS.
- 3) Pursuant to the Nebraska Prompt Payment Act.
- 4) Suspension or termination for cause or convenience as described in the federal grants administration regulations applicable to the Subrecipient.
- 5) Cash advances may be requested in writing with justification of anticipated expenses.

G. Budget Changes. The Subrecipient is permitted to reassign funds from one line item to another line item within the approved budget. Prior approval by NHHSS is not required **provided** the cumulative transfers do not exceed ten percent of the total approved budget, are for an allowable cost allocable to the Subgrant, do not add or eliminate a line item and do not result in programmatic changes.

Prior approval is **required** for cumulative budget transfers exceeding ten percent of the current total approved budget. Requests for transfers shall be addressed in writing to NHHSS. NHHSS shall approve or disapprove the request in writing within 30 days of its receipt.

H. Programmatic changes. The Subrecipient shall request in writing NHHSS approval for programmatic changes. NHHSS shall send a written determination regarding the request to the Subrecipient within 30 days of its receipt.

I. Technical Assistance. NHHSS will provide training and materials, procedures, assistance with quality assurance procedures, and site visits by representatives of NHHSS and the federal granting agency in order to review program accomplishments, evaluate management control systems and other technical assistance as needed or requested.

J. Subrecipient Procurement. Subrecipient shall be the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues, without recourse to NHHSS, arising out of procurement entered into by it in connection with the subgrant. Such issues include, but are not limited to, disputes, claims, protests of award, source evaluation and other matters of a contractual nature.

K. Subgrant Close-out. Upon the expiration or notice of termination of this Subgrant, the following procedures shall apply for close-out of the subgrant:

- 1) Upon request from Subrecipient, any allowable reimbursable cost not covered by previous payments shall be paid by NHHSS
- 2) Subrecipient shall make no further disbursement of funds paid to Subrecipient, except to meet expenses incurred on or prior to the termination or expiration date, and shall cancel as many outstanding obligations as possible. NHHSS shall give full credit to Subrecipient for the federal share of non-cancelable obligations properly incurred by Subrecipient prior to termination.
- 3) Subrecipient shall immediately return to NHHSS any unobligated balance of cash advanced or shall manage such balance in accordance with NHHSS instructions.
- 4) Within a maximum of 90 days following the date of expiration or termination, Subrecipient shall submit all financial, performance, and related reports required by the terms of the Agreement to NHHSS. NHHSS reserves the right to extend the due date for any report and may waive, in writing, any report it considers to be unnecessary.
- 5) NHHSS shall make any necessary adjustments upward or downward in the federal share of costs.
- 6) The Subrecipient shall assist and cooperate in the orderly transition and transfer of subgrant activities and operations with the objective of preventing disruption of services.
- 7) Close-out of this Subgrant shall not affect the retention period for, or state or federal rights of access to, Subrecipient records. Nor shall close-out of this Subgrant affect the Subrecipient's responsibilities regarding property or with respect to any program income for which Subrecipient is still accountable under this Subgrant. If no final audit is conducted prior to close-out, NHHSS reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted at a later time.

L. Documents Incorporated by Reference. All laws, rules, regulations, guidelines, directives and documents, attachments, appendices, and exhibits referred to in these terms and assurances shall be deemed incorporated by this reference and made a part of this Subgrant as though fully set forth herein.

M. Independent Contractor. The Subrecipient is an independent contractor and neither it nor any of its employees shall be deemed employees of NHHSS for any purpose. The Subrecipient shall employ and direct such personnel as it requires to perform its obligations under this Subgrant, shall exercise full authority over its personnel, and shall comply with all worker's compensation, employer's liability, and other federal, state, county, and municipal laws, ordinances, rules, and regulations required of an employer providing services as contemplated by this Subgrant.

N. Release and Indemnity. The Subrecipient shall assume all risk of loss and hold NHHSS, its employees, agents, assignees and legal representatives harmless from all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments and all expenses incident thereto, for injuries to persons and for loss of, damage to, or destruction of property arising out of or in connection with this Subgrant, and proximately caused by the negligent or intentional acts or omissions of the Subrecipient, its officers, employees or agents; for any losses caused by failure by the Subrecipient to comply with terms and conditions of the Subgrant; and, for any losses caused by other parties which have entered into agreements with the Subrecipient.

O. Drug-Free Work-Place Policy. The Subrecipient assures NHHSS that it has established and does maintain a drug-free work-place policy.

P. Acknowledgment of Support. Publications by the Subrecipient, including news releases and articles, shall acknowledge the financial support of NHHSS the federal granting agency by including a statement therein that, **"This project is supported in part by federal Maternal and Child Health Block Grant funds awarded to the (Subrecipient) by the Nebraska Health and Human Services System."**

Q. Copyright. The Subrecipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The federal awarding agency and NHHSS reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal and State purposes, and to authorize others to do so.

R. Notices. All notices given under the terms of this Subgrant shall be sent by United States mail, postage prepaid, addressed to the respective party at the address set forth on the signature page hereof, or to such other addresses as the parties shall designate in writing from time to time.

S. Authorized Official. The person executing the Application Cover Sheet is an official of the Subrecipient who has the authority to bind the Subrecipient to the terms and assurances of this Subgrant of federal financial assistance.

T. Public Counsel. In the event the Subrecipient provides health and human services to individuals on behalf of NHHSS under the terms of this Subgrant, Subrecipient shall submit to the

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jurisdiction of the Public Counsel under Neb. Rev. Stat. §§81-8,240 to 81-8,254 with respect to the provision of services under this subgrant. This clause shall not apply to grants or contracts between NHHSS and long-term care facilities subject to the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act.

Exhibit 1

**Nebraska Health and Human Services System  
Maternal and Child Health**

**Subrecipient Reporting Requirements for FY 2007\***

<b>Report</b>	<b>Date Due</b>	<b>DATE SUBMITTED</b>	<b>Period Covered</b>
1st Quarter Work Plan Report 1 <sup>st</sup> Quarter Expenditure Report	January 15, 2007		<u>1<sup>st</sup> Qtr</u> October 2006 November 2006 December 2006
2 <sup>nd</sup> Quarter Work Plan Report 2 <sup>nd</sup> Quarter Expenditure Report	April 15, 2007		<u>2<sup>nd</sup> Qtr</u> January 2007 February 2007 March 2007
3 <sup>rd</sup> Quarter Work Plan Report 3 <sup>rd</sup> Quarter Expenditure Report	July 15, 2007		<u>3<sup>rd</sup> Qtr</u> April 2007 May 2007 June 2007
4 <sup>th</sup> Quarter/Final Work Plan Report 4 <sup>th</sup> Quarter/Final Expenditure Report Final Data Tables	Nov. 30, 2007		<u>4<sup>th</sup> Qtr</u> July 2007 August 2007 September 2007

\* The “Nebraska Maternal & Child Health (MCH) Grant Procedure Manual – FY 2006-2008” outlines in detail the reporting requirements.

## EXHIBIT 2

### Program Specific Requirements

#### **I. Compliance for the Maternal and Child Health Services Title V Block Grant Program**

- A. The Subrecipient agrees that it will comply with the laws governing Maternal and Child Health Block Grants, 42 U.S.C. section 701 et seq., 45 CFR Parts 74 and 92, and to perform fiscal accountability functions in accordance with state and federal regulations, as described in Exhibit 3.
- B. The Subrecipient agrees that it will comply with the “Procedure Manual for Subrecipients of Nebraska Maternal and Child Health Services Title V Block Grant Funds.”<sup>1</sup>
- C. The Subrecipient acknowledges that it may not use amounts paid to it for:
  - 1. inpatient services, other than inpatient services provided to children with special health care needs or to high-risk pregnant women and infants and such other inpatient services as the Secretary may approve;
  - 2. cash payments to intended recipients of health services;
  - 3. the purchase or improvement of land, the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or the purchase of major medical equipment;
  - 4. satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;
  - 5. providing funds for research or training to any entity other than a public or nonprofit private entity; or
  - 6. payment for any item or service (other than an emergency item or service) furnished
    - a. by an individual or entity during the period when such individual or entity is excluded from providing service under the Maternal and Child Health Act or Title XVIII (Medicare), Title XIX (Medicaid) or Title XX (Services for Families, Children, Aged or Disabled) of the Social Security Act pursuant to section 42 U.S.C. 1320a-7, 42 U.S.C. 1320a-7a, 42 U.S.C. 1320c-5, or 42 U.S.C. 1395u(j)(2) of the Social Security Act; or

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<sup>1</sup> The Procedure Manual for FY 2006-2008 was provided to Subrecipients in March 2006. Any revisions during the three-year project period will be provided to Subrecipients.



- b. at the medical direction or on the prescription of a physician during the period when the physician is excluded from providing services in the Maternal and Child Health program or Title XVIII (Medicare), Title XIX (Medicaid) or Title XX (Services for Families, Children, Aged and Disabled) of the Social Security Act pursuant to 42 U.S.C. Section 1320a-7, 42 U.S.C. Section 1320a-7a, 42 U.S.C. Section 1320-5, or 42 U.S.C. 1395u(j)(2) of the Social Security Act and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).
- D. The subrecipient assures that it is a public or nonprofit (as described in Internal Revenue Code 501(c)(3)) entity, and will provide proof of its nonprofit status upon request of NHHSS.

## II. Cash Advance

- A. Consideration of Request. In any fiscal year, a one-time advance up to 25% of the fiscal year budget will be considered based on the following criteria and circumstances:
  - 1. Subrecipient must determine that other funds are not available to pay for the startup costs of the activities for the 1<sup>st</sup> Quarter of a fiscal year. If other funds are not available, the written request must include a declaration that Subrecipient will suffer serious cash flow problems without a cash advance. The declaration and any supporting evidence or rationale shall accompany the request.
  - 2. Subrecipient submits a written request using the designated form in the “Procedure Manual for Subrecipients of Nebraska Maternal and Child Health Services Title V Block Grant Funds.”
  - 3. Past performance of Subrecipient in any current and/or prior grants, contracts, cooperative agreements, or subcontracts with NHHSS, with particular consideration to timely reporting or other evidence of deliverables.
- B. Quarterly Deductions. A cash advance will be accounted for through deductions from the reimbursement of actual expenditures. A Subrecipient receiving a cash advance will have its reimbursement request reduced by one-fourth of the advance each of the four quarterly reporting periods. To encourage timely reporting and subsequently the deduction from the reimbursement request, a Subrecipient receiving a cash advance will be assessed a penalty of \$25.00 for each day the quarterly report is past the reporting due date [Exhibit 1, ATTACHMENT 4]. When the final expenditure report is submitted, if more cash has been paid to the Subrecipient than the total amount of expenditures, the overage must be immediately refunded to NHHSS.

### III. Reimbursement

- A. Reduction in Funding. In the event NHHSS experiences funding shortages, the dollar amounts specified in the award may be reduced accordingly, and the Subrecipient may be required to reduce project activities.
- B. Reservation of Right. NHHSS reserves the right to the following provisions:
  - 1. To reallocate funds among local agencies as needed to insure service to individuals at highest levels of priority.
  - 2. To either terminate or curtail all or part of the activities of the Subrecipient in order to best utilize available funding in the event that all or part of the federal or state funds are terminated, suspended, not released, or otherwise are not forthcoming.
  - 3. To suspend the Subrecipient's authority to obligate funds provided by NHHSS pursuant to this Subgrant pending corrective action by this Subrecipient or a decision to terminate this Subgrant.
  - 4. To terminate immediately this Subgrant, in whole or in part, when federal funding is terminated, suspended, not released or otherwise forthcoming.

### IV. Program Income

- A. Program income will not be carried over between fiscal years, *i.e.* no program income may remain unused after September 30 in any fiscal year. The beginning balance of program income each fiscal year must be zero. As program income is earned, it shall be utilized to enhance the program, resulting in a zero balance on the final expenditure report. If the final expenditure report reflects a program income balance, reimbursement for 4th Quarter expenses will be reduced by the amount of the balance. In the event that the approved reimbursement of 4th Quarter expenses is less than the program income balance, a refund must be submitted by the Subrecipient to NHHSS.

### V. Match

- A. Subrecipients of Nebraska MCH grant funds are required to provide matching resources in the amount of 20% of the award. (Example: \$10,000 match required for a \$50,000 award). This community-based support is essential to help Nebraska meet the State's match requirement of three dollars for every four dollars of federal MCH Block Grant funds. Applicants must document in the proposal their capacity to provide matching funds, indicating both the type and source of match. The two types of matching resources are: 1) cash, and 2) in-kind (non-cash). See additional information regarding match requirements [ATTACHMENT 7].

Exhibit 3

**NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM**

**Administrative and Audit Guidance**

To recipients of state funds and subrecipients of federal funds: *An **independent certified public accountant (CPA)** licensed to practice in the state of Nebraska must prepare and issue **all types of reports**, i.e. review, audit or A-133 reports. **Audit or A-133 reports** for governmental organizations and not-for-profit organizations who receive federal payments are to be **prepared in accordance with Government Auditing Standards** as promulgated by the Comptroller General of the United States.*

	<b>Federal Authority</b>	<b>Cost Principles</b>	<b>Year-end Financial Reporting Type of Report by Payment Threshold</b>
<b>Types of Organizations</b>  Not-for-profit organizations	45 CFR Part 74	A-122	<ul style="list-style-type: none"> <li>▪ If state and federal payments from NHHSS are <i>less than \$75,000</i>, a <u>review report</u> is needed.</li> <li>▪ If state and federal payments from NHHSS are <i>\$75,000 or greater</i>, an <u>audit report</u> is needed.</li> <li>▪ If federal payments from all sources are <i>\$500,000 or greater</i>, <u>A-133 report</u> is needed.</li> </ul>
College or University	45 CFR Part 74	A-21	<ul style="list-style-type: none"> <li>▪ If state and federal payments from NHHSS are <i>less than \$75,000</i>, a <u>review report</u> is needed.</li> <li>▪ If state and federal payments from NHHSS are <i>\$75,000 or greater</i>, an <u>audit report</u> is needed.</li> <li>▪ If federal payments from all sources are <i>\$500,000 or greater</i>, <u>A-133 report</u> is needed.</li> </ul>
State, Local or Tribal Government	45 CFR Part 92	A-87	<ul style="list-style-type: none"> <li>▪ If state and federal payments from NHHSS are <i>less than \$75,000</i>, a <u>review report</u> is needed.</li> <li>▪ If state and federal payments from NHHSS are <i>\$75,000 or greater</i>, an <u>audit report</u> is needed.</li> <li>▪ If federal payments from all sources are <i>\$500,000 or greater</i>, <u>A-133 report</u> is needed.</li> </ul>

**AUDIT REQUIREMENT CERTIFICATION**  
NEBRASKA HEALTH AND HUMAN SERVICES FINANCE & SUPPORT

Applicants receiving federal funds, directly or indirectly, must complete this certification. In Part I, **select either #1 or #2** as relevant to the applicant. An individual authorized by the applicant must **sign the Certification** in Part II. The Office of Management and Budget (OMB) Circular A-133 “Audits of States, Local Governments and Non-Profit Organizations” is referenced in this document as “OMB Circular A-133”.

**Applicant** \_\_\_\_\_

**Name of Grant** \_\_\_\_\_ **CFDA\* #** \_\_\_\_\_

**FTIN\*\*** \_\_\_\_\_

**Applicant's Fiscal Year** \_\_\_\_\_, 20\_\_ to \_\_\_\_\_ 20\_\_

\* Catalog of Federal Domestic Assistance

\*\* Federal Tax Identification Number

**PART I**

**#1. [ ]** As the applicant named above, *we will expend less than \$500,000* (for fiscal years ending after December 31, 2003) from all Federal Financial Assistance sources, not just the grant named above, and including commodities in our current fiscal year. **Therefore, we are not subject to the audit requirements of OMB Circular A-133.**

*We are, however, responsible for engaging a Certified Public Accountant (CPA) licensed to practice in Nebraska to conduct and prepare either, a review or audit of our organization's financial statements and a report issued by the CPA. We acknowledge the audit must be completed no later than nine months after the end of our organization's current fiscal year. A copy of the report must be submitted to the Nebraska Health and Human Services Finance and Support address as shown at the end of Part I.*

**#2. [ ]** As the applicant named above, *we will expend \$500,000 or more* (for fiscal years ending after December 31, 2003) from all Federal Financial Assistance sources, not just the grant named above, and including commodities in our current fiscal year. **Therefore we are subject to the single audit requirements of OMB Circular A-133.**

We will engage a certified public accountant (CPA) licensed to practice in Nebraska to conduct and prepare the audit of our organization's financial statements and components of the single audit pertaining to those financial statements. We acknowledge the audit must be completed no later than nine months after the end of our current fiscal year. *(#2 continued on next page)*

**(#2 Continued)**

We further acknowledge, that a single audit performed in accordance with OMB A-133 must be submitted to the Federal Audit Clearinghouse. The reporting package, as evidence the audit was completed, must contain:

- The recipient/subrecipient's financial statements,
- a schedule of Expenditure of Federal Awards,
- a Summary Schedule of Prior Audit Findings (if applicable),
- a corrective action plan (if applicable) and
- the auditor's report(s) which includes an opinion on this recipient/subrecipient's financial statements and Schedule of Expenditures of Federal Awards, a report on this recipient/subrecipient's internal control, a report on this recipient/subrecipient's compliance, and a Schedule of Findings and Questioned Costs.

We further acknowledge that the auditor and this recipient/subrecipient must complete and submit with the reporting package a *Data Collection Form for Reporting on Audits of States, Local Governments and Non-Profit Organizations* (SF-SAC).

We further acknowledge that a copy of this recipient/subrecipient's financial statements, auditor's report and SF-SAC must be submitted to Nebraska Health and Human Services Finance and Support and the Federal Audit Clearinghouse simultaneously. See the Federal Audit Clearinghouse webpage for its submission requirements:

<http://harvester.census.gov/sac/>

For NHHSS, send the audit to:

Nebraska Health and Human Services Finance and Support  
Financial Services Division - Grants and Cost Management  
P.O. Box 95026  
Lincoln, NE 68509-5026

## PART II

***An individual authorized by the applicant must sign this Audit Certification:***

I hereby certify the information furnished is correct to the best of my knowledge and belief and this subrecipient will comply with the requirements as stated in this certification.

\_\_\_\_\_  
Name and Title of Authorized Individual  
(Please print legibly or type)

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**CERTIFICATION REGARDING LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, A Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Organization Name

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Name and Title of Official Signing for Organization

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Signature of Official / Date

**CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds in Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the applicant/subgrantee certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

\_\_\_\_\_  
Signature of authorized official signing on  
behalf of applicant/subgrantee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Organization

**INSTRUCTIONS**  
**FOR**  
**CERTIFICATION REGARDING DEBARMENT,**  
**SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. By signing and submitting the proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.



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8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, INELIGIBILITY AND  
VOLUNTARY EXCLUSION**

**LOWER TIER COVERED TRANSACTIONS**

*Before completing certification, read instructions on the previous pages.*

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\_\_\_\_\_  
Name and Title of Authorized Representative

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**INSTRUCTIONS**  
**FOR**  
**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free workplace Act.
3. For grantees other than individuals, Alternate I. applies.
4. For grantees who are individuals, Alternate II. applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of the application, or upon award, if there is no application, the grantee must keep the identity of the workplaces(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)
7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the changes(s), if it previously identified the workplaces in question (see paragraph five).
8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantee's attention is called in particular, to the following definitions from these rules:

*Controlled substance* means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. § 812) and as further defined by regulation (21 C.F.R. § 1308.11 through §1308.15);

*Conviction* means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

*Criminal drug statute* means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

*Employee* means the employee of a grantee directly engaged in the performance of work under a grant. Including: (i) All direct charge employees; (ii) all indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include worker not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**  
Alternate I. (Grantees Other Than Individuals)

***Before completing certification, read instructions on the previous pages.***

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - b. Establishing an ongoing drug-free awareness program to inform employees about –
    - (i) The dangers of drug abuse in the workplace;
    - (ii) The grantee's policy of maintaining a drug-free workplace;
    - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;
  - d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
    - (i) Abide by the terms of the statement; and
    - (ii) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace not later than five calendar days after such conviction;
  - e. Notifying the agency in writing within ten calendar days after receiving notice under paragraph d.(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
  - f. Taking one of the following actions, within 30 calendar days of receiving notice under paragraph d.(ii), with respect to any employee who is so convicted—
    - (i) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or

## Attachments

- (ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (street address, city, county, state, zip code)

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☐ Check if there are workplaces on file that are not identified here.

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Name and Title of Authorized Representative (Print)

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Organization

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Signature

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Date

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

Alternate II. (Grantees Who Are Individuals)

1. The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant;
2. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

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Name (Print)

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Signature

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Date